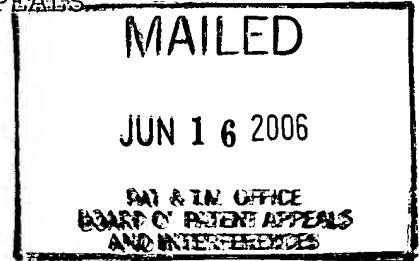


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte IMRAN SHARIF,
JOHN BREMSTELLER,
GLEN EDWARD IVEY and
WILLIAM KNAPP



Application No. 09/902,986

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on June 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On October 3, 2005, appellants filed Appeal Brief. A review of the file reveals that the Appeal Brief is not fully compliance with 37 CFR § 41.37(c).

37 CFR § 41.37(c) states in part:

(ix) **Evidence appendix.** An appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner.

Reference to unentered evidence is not permitted in the brief. See § 41.33 for treatment of evidence submitted after appeal. This appendix may also include copies of the evidence relied upon by the examiner as to grounds of rejection to be reviewed on appeal.

(x) **Related proceedings appendix.** An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

A review of the application indicates that the following sections are missing from the Appeal Brief of October 3, 2005:

1) "Evidence appendix" as set forth in 37 CFR § 41.37(c)(1)(ix); and

2) "Related proceedings appendix" as set forth in 37 CFR § 41.37(c)(1)(x).

Appropriate correction is required.

Upon review of the Examiner's Answer mailed December 15, 2005, it appears that the required heading "Evidence Relied Upon" is missing from the Examiner's Answer. The prior art record applied in the rejection needs to be listed under this heading. See Manual of Patent Procedure (MPEP) § 1207.02 (Rev. 3, August 2005, pp. 1200-33. Appropriate correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner for:

- 1) hold the Appeal Brief of October 3, 2005 defective;
- 2) request applicants to file a substitute Appeal Brief,
- 3) vacate the examiner's answer mailed December 15, 2005, and issue a new Examiner's Answer having the missing prior art listed under the Evidence Relied Upon section, paragraph (8); and
- 4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

DALE M. SHAW

Program and Resource Administrator
(571) 272-9797

DMS/dal

Application No. 09/902,986

4

ROBERT BUCKLEY, PATENT ATTORNEY
P.O. BOX 272
LIVERMORE, CA 94551-0272